

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Michael H. Williamson, et al.,	:	
	:	
Plaintiffs,	:	Case No. C2-06-292
	:	
v.	:	Judge Marbley
	:	
Recovery Limited Partnership, et al.,	:	Magistrate Judge Kemp
	:	
Defendants.	:	

The Dispatch Printing Company, et al.,	:	
	:	
Plaintiffs,	:	Case No. C2-06-292
	:	
v.	:	Judge Marbley
	:	
Recovery Limited Partnership, et al.,	:	Magistrate Judge Kemp
	:	
Defendants.	:	

The Dispatch Printing Company, et al.,	:	
	:	
Plaintiffs,	:	Case No. C2-06-292
	:	
v.	:	Judge Marbley
	:	
Gilman D. Kirk, et al.,	:	Magistrate Judge Kemp
	:	
Defendants.	:	

MOTION TO PERMIT WITHDRAWAL AS COUNSEL ON BEHALF OF
DEFENDANTS GILMAN KIRK, JAMES TURNER, W. ARTHUR CULLMAN JR.,
MICHAEL FORD AND TOMMY THOMPSON

Attorney William M. Mattes, and the law firm Dinsmore & Shohl, LLP, who appear as counsel of record for Defendants Gilman Kirk, James Turner, W. Arthur Cullman, Jr., Michael Ford, and Tommy Thompson¹ ("Clients") respectfully moves, pursuant to S.D. Ohio Civ. R. 83.4(c)(2), to withdraw as counsel of record for the Clients. In support of this request, Mr. Mattes advises the Court that Dinsmore & Shohl LLP had been retained by the Clients' insurer to defend claims against them as insureds under an officers and directors insurance policy issued on behalf of Columbus Exploration LLC ("Policy"). Coverage under that Policy has been exhausted. The reasons for this motion are set forth more fully in the accompanying Memorandum in Support. This motion is further supported by the affidavit of William M. Mattes.

A proposed Order is submitted for the convenience of the Court.

Respectfully submitted,

/s/ William M. Mattes

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Tommy Thompson*

¹ Mr. Thompson was originally represented in this matter by Rex Elliott and Charles Cooper of Cooper & Elliott and more recently Shawn Organ of Organ Cole + Stock LLP, both of whom withdrew as counsel. See Docket # 657 and 887.

MEMORANDUM IN SUPPORT

I. Introduction and Background

This cause was originally removed from the Franklin County Common Pleas Court on April 24, 2006 (Doc. #2). An Answer was filed on behalf of the Directors of Columbus Exploration LLC (Gilman Kirk, James Turner, Michael Ford and Arthur Cullman, Jr. “Directors”) on May 15, 2006 (Doc. #13). An Answer was filed on behalf of Mr. Thompson by attorney Elliott on October 18, 2006 (Doc. #127). Summary judgment was granted to the Directors in 2011 (Doc. #646), however, the claims against Mr. Thompson are still pending along with contempt charges.

A. Argument

Local Rule 83.4(c)(2) requires that “the withdrawal of the current trial attorney, either from the case or from the designation as trial attorney, must occur by way of motion and order.” Such motion must: (1) “be served upon the client and the certificate of service must so state”; (2) “it must assert that good cause, as defined by the Rules of Professional Conduct, exists to permit the withdrawal”; and (3) “it must be accompanied by an affidavit or other evidence supporting the assertion of good cause.”

B. Service

Service is being made upon Mr. Thompson via the U.S. Marshall and remaining clients via U.S. mail as shown in the Certificate of Service.

C. Good Cause

Circumstances have arisen between Dinsmore & Shohl, LLP and the Clients that permit Mr. Mattes and Dinsmore to withdraw as counsel for the Clients in this matter. Ohio Rule of Professional Conduct 1.16 (b)(5) permits an attorney to withdraw if the client has substantially

failed to fulfill financial obligations regarding the attorney's services and the client was given reasonable notice that the attorney would withdraw if the obligation was not fulfilled. Throughout most of this litigation, the Clients had insurance coverage. [Mattes Aff. at ¶ 4]. This insurance coverage has been exhausted. [Mattes Aff. at ¶ 5]. The Clients have been informed of this fact and have failed to make arrangements to engage counsel and fulfill financial obligations for prior and future services, despite being informed that they would need to do so. [Mattes Aff. at ¶ 6]. Clients' failure to engage counsel and agree to fulfill their financial obligations establishes good cause to withdraw as counsel, as required by S.D. Ohio Civ. R. 83.4(c)(2).

Because summary judgment was granted as to all Clients except Mr. Thompson on the Williamson claims, (see *Williamson v. Recovery Ltd. P'ship*, No. 2:06-CV-292, 2011 U.S. Dist. LEXIS 59584, at *50 (S.D. Ohio June 3, 2011) Docket #646, there are no future dates for the Directors. Nevertheless, Mr. Mattes certifies that notice has been given to the Clients advising them of the need to withdraw if they failed to engage counsel. Further, notice of this motion has been given to all Clients and counsel of record. Mr. Thompson has engaged counsel Ben Dusing for part of the pending contempt matter and is or should be aware of the upcoming status conference. A copy of this Motion will be served on his counsel and upon Mr. Thompson via the U.S. Marshall.

Based on the foregoing, William M. Mattes and the law firm of Dinsmore & Shohl LLP respectfully request that they be permitted to withdraw as counsel for Defendants Gilman Kirk, James Turner, W. Arthur Cullman, Jr., Michael Ford, and Tommy Thompson in this case.

Respectfully submitted,

/s/ William M. Mattes

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Tommy Thompson*

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2015 this document was electronically filed via Court's authorized electronic filing system, which will send notifications of this filing to all counsel, and by U.S. Mail upon:

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/s/ William M. Mattes
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